

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re

Robinson Tait, P.S.,

Debtor.

No. 18-11373-TWD (Ch. 7)

EX PARTE MOTION TO AUTHORIZE
THE CHAPTER 7 TRUSTEE TO TAKE
ACTIONS TO TERMINATE THE
DEBTOR'S INVOLVEMENT IN CASES

Nancy L. James, the Chapter 7 trustee in this case, through her attorneys Bush Kornfeld LLP, moves the Court for an order authorizing her to take certain actions to terminate the Debtor's involvement in cases pending before multiple courts in multiple jurisdictions and, in support of this motion, states:

BACKGROUND

As a preliminary matter, all facts represented in this motion and the attached declaration are true to the best of the Trustee's and the undersigned's knowledge. However, the Debtor does not currently have access to its business records or other electronic files. The Trustee is working to restore that access. Additionally, the Debtor has not filed schedules. The Trustee has conducted as much due diligence as possible under the circumstances. To date, the Trustee has met with the Debtor's attorney

1 and its principal. In addition, the Trustee and her counsel have had dozens of conversations with
2 former clients, employees, and attorneys adverse to the Debtor's former clients.

3 The Debtor was a law firm that focused on representing mortgage servicers in matters relating
4 to the foreclosure of consumer mortgages. Prior to the time of filing, the Debtor had approximately
5 3,500 open matters ("Open RT Matters"). In addition, the Debtor, along with its attorneys, are the
6 attorneys of record in thousands of other matters that, while they were not open files from the
7 Debtor's perspective, may nonetheless be open, active cases pending in this and other courts ("Closed
8 RT Matters"). The estimated number of Closed RT Matters exceeds 5,000. The Debtor is currently
9 attorney of record in cases before Bankruptcy Courts, Federal District Courts, and a variety of state
10 Courts in Alaska, Idaho, Montana, Oregon, and Washington. Prior to filing, the Debtor provided
11 notice to its clients that it was ceasing operations.

12 In its practice, the Debtor utilized software platforms provided by third parties, such as Black
13 Knight Financial Services, Inc. ("Software Platforms"), to manage its case load and client interactions.
14 The Debtor estimates that more than 99% of Open RT Matters are managed through the Software
15 Platforms. Prior to filing, the Debtor also provided notice to the Software Platforms that it was ceasing
16 operations. The Software Platforms and/or the Debtor's client reassigned the Open RT Matters that
17 were managed through the Software Platform to new attorneys. While the new attorneys have not
18 appeared in all the Open RT Matters, the Debtor no longer represents its former clients in the
19 transferred cases.

20 **AUTHORITY**

21 The Trustee has a duty to maximize the value of the estate's assets, including taking
22 reasonable steps to protect the estate from incurring liability. 11 U.S.C. § 704; *see, generally, In re*
23

1 *Peckinpugh*, 50 B.R. 865, 869 (Bankr. N.D. Ohio 1985) (“Thus it is clear that in a Chapter 7 case the
2 Trustee's duty is to liquidate assets and to preserve them until the time they are disposed of...”). “The
3 court may issue any order...necessary or appropriate to carry out the provisions of this title.” 11
4 U.S.C. § 105.

5 **DISCUSSION**

6 The Trustee requests an order confirming her authority to take steps to terminate the Debtor’s
7 involvement in any matter in which it represented a client. The Trustee seeks to take these steps to
8 prevent any claims of negligence, malpractice, or other claims that former clients or other parties
9 might make against the estate. Additionally, to the extent a former client has not been notified of the
10 Debtor’s cessation of operations, the Trustee seeks to ensure that the former client receives that notice.

11 Currently, the Trustee has identified four actions she would take to confirm the Debtor’s
12 status. First, she would terminate the Debtor’s electronic filing accounts. This will prevent the Debtor
13 from being served with notice via a court’s electronic noticing system. Additionally, it will prevent
14 prejudice to former clients who would otherwise be deemed served when the Debtor receives
15 electronic notice of a court filing.

16 Second, the Trustee would provide a notice, substantively similar to the notice attached to this
17 motion, to clerks of the courts and request that the clerk file the notice in each of the cases where the
18 Debtor has appeared. The Trustee has spoken with the Clerk of this Court and believes that such a
19 procedure is possible. This would provide notice to parties in those cases, via the Court’s ECF system,
20 of the Debtor’s termination.

21 Third, the Trustee would sign, or authorize others to sign, withdrawals, substitutions of
22 counsel, or other similar documents. The Trustee has received requests to sign documents to effect
23 substitutions of counsel from both former clients and former employees. The Trustee seeks to assist in

1 transferring cases to new attorneys when the signature of the Debtor is necessary to effect such a
2 change.

3 Finally, the Trustee would transfer or return client files upon request, when appropriate. For
4 cases handled through the Software Platforms, the electronic file was transferred upon reassignment of
5 the matter. However, the Debtor maintains other electronic files and paper files. The files include
6 original real property records needed to prove a client's rights and loan documents that include
7 personally identifiable information of the borrowers. The files are likely the property of the Debtor's
8 clients and, so long as the client has paid for the services the Debtor rendered, the Trustee would like
9 the authority to return the files to former clients or transfer the files to the client's new counsel. The
10 Trustee will bring a separate motion to address files that are not requested by former clients or new
11 attorneys.

12 The Trustee has evaluated whether a sale of all or part of the Debtor's practice could be
13 accomplished. Given the nature of the practice, such a sale is not possible. The Trustee does not waive
14 any right to compensation that the Debtor may have for work that the Debtor performed.

15 Wherefore, the Trustee asks the Court to grant this motion and grant the relief requested in the
16 attached proposed order.

17 DATED this 17th day of April, 2018, at Seattle, Washington.

18 BUSH KORNFELD LLP

19
20 By /s/ Thomas A. Buford
Thomas A. Buford, WSBA #52969
Aditi Paranjpye, WSBA #53001
21 Attorneys for the Trustee
22
23